



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2011-0202; FRL-9902-04-Region6]

**Approval and Promulgation of Air Quality Implementation Plans;
Texas; Revisions to Rules and Regulations for Control of Air Pollution; Permitting
of Grandfathered Facilities**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions of the Texas State Implementation Plan submitted by the Texas Commission on Environmental Quality (TCEQ, or Commission) on July 31, 2002; September 4, 2002; and March 1, 2004. These revisions require that all grandfathered facilities obtain specific permits which include emission control methods to achieve mandated emission reductions, as required, or shutdown; and require that emissions from dockside vessels which result from operations at grandfathered land-based facilities be included in specific permits. The revisions also outline additional permitting procedures for certain grandfathered pipeline equipment located in an ozone nonattainment area.

These permitting requirements and emissions reductions will contribute to

achieving attainment and help ensure attainment and continued maintenance of the National Ambient Air Quality Standards (NAAQS) for ozone in the State of Texas. EPA is proposing the revisions under section 110, part C, and part D of the Act, and EPA's regulations.

DATES: Written comments must be received on or before **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2011-0202, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions.
- E-mail: Mr. Rick Barrett at: barrett.richard@epa.gov. Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Mail or delivery: Mr. Rick Barrett, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2011-0202. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through <http://www.regulations.gov> or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> website is an "anonymous access" system, which means that

EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Barrett (6PD-R), Air Permits Section, telephone (214) 665-7227; fax (214) 665-7263; e-mail:

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SUPPLEMENTARY INFORMATION: Throughout this document “we,” “our,” and “us” refers to EPA.

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I. Background

The 77th Texas State Legislature, 2001, amended the Texas Health and Safety Code (THSC) and the Texas Clean Air Act (TCAA) to require that all grandfathered facilities obtain permits. A “grandfathered facility” is one that existed at the time the Legislature amended the TCAA in 1971. Texas began permitting new and modified sources in 1971, and sources built before Texas’ permitting rules became effective were not required to obtain permits for air emissions as long as they were not modified as

defined under Texas' New Source Review (NSR) State Implementation Plan (SIP) program.

The purpose of this rulemaking by EPA is to propose approval of the TCEQ's permit and emission control requirements for grandfathered facilities and related permit application, monitoring, reporting and public notice procedures. Specifically, the permit application requirements, methods for monitoring and reporting emissions, and public notice procedures for grandfathered facilities are the subject of this proposed rule.

II. What Action Is EPA Proposing?

We are proposing to fully approve certain revisions to 30 TAC Chapter 116, submitted by the State of Texas on July 31, 2002, and September 4, 2002. We are also proposing to fully approve the revisions to 30 TAC Chapter 116 submitted by the State of Texas on March 1, 2004. We are proposing to fully approve the July 31, 2002, and the September 4, 2002, submittals except for a severable portion in each which allows owners or operators of grandfathered facilities to apply for an existing facility flexible permit under the State's Flexible Permit Program. We will take separate action in the future in the Federal Register on the submittals with regard to the "Existing Facility Flexible Permit" portion. Also, please note that EPA's action on 30 TAC Chapter 116, Subchapter A: "Definitions," section 116.18, and 30 TAC Chapter 116, Subchapter I: "Electric Generating Facility Permits," sections 116.910 – 116.930, were previously acted on in a separate notice. See 76 FR 1525 (January 11, 2011).

The July 31, 2002, submittal concerns Subchapter H: "Permits for Grandfathered Facilities," at 30 TAC sections 116.770-772, 116.774-777, 116.779-781, 116.783,

116.785-788, 116.790, 116.793-802, and 116.804-807. The TCEQ adopted these revisions on May 22, 2002.

The September 4, 2002, submittal concerns Subchapter H: “Permits for Grandfathered Facilities,” at 30 TAC sections 116.778 and 116.803; and Subchapter I: “Electric Generating Facility Permits,” at 30 TAC section 116.919. The TCEQ adopted these revisions on August 21, 2002.

The March 1, 2004, submittal concerns Subchapter H: “Permits for Grandfathered Facilities,” at 30 TAC sections 116.770 and 116.772. The TCEQ adopted these revisions on January 28, 2004.

Our Technical Support Document (TSD) contains a more detailed explanation of the submittal and the underlying regulatory requirements. The TSD is available in the public docket for this rulemaking.

A. July 31, 2002 Submittal

In the July 31, 2002 submittal, Texas submitted new and amended rules to Chapter 116, which include Subchapter A: “Definitions,” delineating certain definitions of words and terms used in Subchapter I; Subchapter H: “Permits for Grandfathered Facilities”, Division 1, “General Applicability;” Division 2, “Small Business Stationary Source Permits, Pipeline Facilities Permits, and Existing Facility Permits;” Division 3, “Existing Facility Flexible Permits;” and Subchapter I: “Electric Generating Facility Permits.” In addition, Texas submitted 30 TAC Chapter 39, “Public Notice,” which includes Subchapter H: “Applicability and General Provisions,” and Subchapter K: “Public Notice of Air Quality Applications.”

The above-referenced provisions contained in the Subchapter A and Subchapter I

of Chapter 116, and Subchapter H and Subchapter K of Chapter 39, are severable and not part of today's proposal action. The provisions in Subchapter A and Subchapter I of Chapter 116 were previously acted on. See 76 FR 1525 (January 11, 2011). The provisions in Subchapter H and Subchapter K of Chapter 39 were previously withdrawn. See letter dated July 2, 2010, from the TCEQ to EPA Region 6, in the public docket for this proposed action. Also, in the July 31, 2002 submittal concerning Chapter 116, Subchapter H: "Permits for Grandfathered Facilities," Division 3, "Existing Facility Flexible Permits," sections 116.793-802 and 116.804-807 are severable and will be acted on in a future separate rulemaking. By severable, we mean that these sections can be implemented independently of the remaining portions of the submittal without affecting the stringency of the submitted rules.

EPA is acting only on a portion of Subchapter H: "Permits for Grandfathered Facilities": Division 1 and Division 2. The submitted amendments to Subchapter H, Permits for Grandfathered Facilities, implement the portions of TCAA, section 382.0158, which create new types of permits for grandfathered facilities. Division 1 and Division 2 representative sections include section 116.770, Requirements to Apply; section 116.774, Eligibility for Small Business Stationary Source Permits; section 116.775, Eligibility for Pipeline Facilities Permits; section 116.777, Eligibility for Existing Facility Permits; section 116.779, Applications for Small Business Stationary Source Permits, Pipeline Facilities Permits, or Existing Facility Permits; and section 116.783, Notice of Final Action on Pipeline Facilities Permit Applications and Existing Facility Permit Applications.

In section 116.770, the owner or operator of a grandfathered facility must apply

for a permit to operate the facility under Chapter 116, qualify for a permit by rule under Chapter 106, or submit a notice of shutdown. Specific deadlines for facilities to apply are: before September 1, 2003 for facilities located in the East Texas region, and before September 1, 2004 for facilities located in the West Texas region and El Paso County.

Section 116.774 identifies the types of facilities which are eligible for a small business stationary source permit in accordance with TCAA, section 382.05184. Only the owners or operators of facilities located at small business stationary sources and which are not required to submit emissions inventories to the commission may apply for a small business stationary source permit. The owner or operator must apply for the small business stationary source permit before September 1, 2004. The new section specifies that any grandfathered facility, including any facility for which the owner or operator has submitted a notice of shutdown located at a small business stationary source, may not emit air contaminants on or after March 1, 2008, unless the facility is permitted or has a pending permit application under Chapter 116, or a pending registration for a permit by rule under Chapter 106. The new section also requires an application for a small business stationary source permit to be submitted under the seal of a Texas licensed professional engineer, if required, and states that the facility's owner or operator is responsible for applying for the permit and complying with the subchapter. A small business stationary source may not emit air contaminants on or after March 1, 2008, unless the facility is permitted, has a permit application pending, or has a registration or pending registration for a permit by rule.

Section 116.775 identifies the types of facilities which are eligible for a pipeline facilities permit in accordance with TCAA, section 382.05186. The owner or operator of

a grandfathered reciprocating internal combustion engine or group of engines that are part of processing, treating, compression, or pumping facilities connected to or part of a gathering or transmission pipeline may apply for a pipeline facilities permit. The new section also requires an application for a pipeline facilities permit to be submitted under the seal of a Texas licensed professional engineer, if required by section 116.110(e), and states that the facility's owner or operator is responsible for applying for the permit and complying with the subchapter. The new section allows the owner or operator of more than one grandfathered reciprocating internal combustion engine to apply for a pipeline facilities permit for a single grandfathered engine or for a group of grandfathered engines connected to or part of a gathering or transmission pipeline. The commission revised section 116.775(d) to clarify that the owner or operator may apply for a permit for a single engine or a group of engines.

Section 116.777 identifies the types of facilities which are eligible for an existing facility permit in accordance with TCAA, section 382.05183. The owner or operator of any grandfathered facility may apply for an existing facility permit. The new section also requires an application for an existing facility permit to be submitted under the seal of a Texas licensed professional engineer, if required by section 116.110(e), and states that the facility's owner or operator is responsible for applying for the permit and complying with Subchapter H.

Section 116.779 specifies the application requirements and demonstrations which must be met in order for a facility to be granted a small business stationary source permit, pipeline facilities permit, or existing facility permit. These requirements are consistent with the requirements for other permits issued under Chapter 116. Section 116.779 has

three subsections:

Section 116.779(a) provides that the emissions from the facility must comply with the rules and regulations of the commission, including the protection of public health and physical property. The commission may not issue a permit for a grandfathered facility if it finds that the emissions from the grandfathered facility will not be protective of public health and physical property. In order to be consistent with the current review process for permits and applicable federal requirements, the section requires the owner or operator of a grandfathered facility applying for a small business stationary source permit, pipeline facilities permit, existing facility flexible permit, or EGF permit to be able to demonstrate that they meet applicable federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). Facilities must be able to meet performance standards specified in the application and may be required to provide information that demonstrates ongoing compliance after the permit is issued. If applicable, facilities would be required to comply with Prevention of Significant Deterioration (PSD) and nonattainment review as specified in Chapter 116, Subchapter B. Since grandfathered facilities may be required to comply with any applicable Federal requirements (for example, NESHAP standards), EPA expects Texas to clearly identify state and federal requirements in the permit.

Section 116.779(b) specifies additional requirements which apply to applicants for a pipeline facilities permit. In accordance with TCAA, section 382.05186(e), facilities located in the East Texas region will be required to demonstrate that each engine will achieve at least a 50% reduction of the hourly emissions rate of NO_x and may also be required to demonstrate a 50% reduction of the hourly emissions rate of VOC, both

expressed in terms of grams per brake horsepower-hour (g/bhp-hr). Consistent with TCAA, section 382.05186(f), the new section also states that the commission shall require up to a 20% reduction in the hourly emissions rate of NO_x and shall require up to a 20% reduction in the hourly emissions rate of VOC, expressed in terms of g/bhp-hr, for facilities located in the West Texas region or El Paso County.

Section 116.779(c) specifies additional requirements with which applicants for an existing facility permit will have to comply. In accordance with TCAA, section 382.05183(b), applicants for existing facility permits will have to propose an air pollution control method that is at least as beneficial as the BACT that the commission required or would have required for a facility of the same class or type as a condition of issuing a permit or permit amendment 120 months (ten-year-old BACT) before the submittal of the existing facility permit application, considering the age and remaining useful life of the facility, and identify the date by which the control method will be implemented.

Section 116.783 specifies the commission's responsibilities for sending notice of the final action on an application for a pipeline facilities permit or an existing facility permit, and the information that the commission must include in the notice. The new section will require the commission to individually notify persons who commented during the public comment period or at a permit hearing, of the final action of the commission. The notice must be sent by first-class mail to the commenters and to the applicant. The proposed rule stated that the notice must include the response to comments, the identification of any changes in the permit, and a statement that any person affected by the decision of the commission may petition for rehearing and for judicial review. Because, in section 116.790, the commission is delegating to the

executive director the authority to take any action on a permit issued under this division, this section now requires that the notice state that any person affected by the decision of the executive director may file a motion to overturn rather than a petition for rehearing.

B. September 4, 2002 Submittal

In the September 4, 2002 submittal, Texas submitted new and amended rules to Chapter 116, which include Subchapter A: “Definitions,” which adds certain definitions; Subchapter B: “New Source Review Permits;” Subchapter D: “Permit Renewals;” Subchapter F: “Standard Permits;” Subchapter G, “Flexible Permits;” Subchapter H: “Permits for Grandfathered Facilities,” Division 2, “Small Business Stationary Source Permits, Pipeline Facilities Permits, and Existing Facility Permits;” Division 3, “Existing Facility Flexible Permits;” and Subchapter I: “Electric Generating Facility Permits.”

The above-referenced provisions contained in Subchapter A, Subchapter B, Subchapter D, Subchapter F, Subchapter G, and Subchapter H: Division 3, of Chapter 116 are severable and not part of today’s proposal action. These severable provisions are being acted on in separate rulemakings. By severable, we mean that these provisions can be implemented independently of the remaining portions of the submittal without affecting the stringency of the submitted rules.

EPA is acting only on Subchapter H: “Permits for Grandfathered Facilities,” Division 2; and Subchapter I: “Electric Generating Facility Permits,” from the September 4, 2002 submittal.

The submitted amendments to Subchapter H, Permits for Grandfathered Facilities, Division 2, implements the portions of TCAA, section 382.065, which primarily requires the permitting of all air contaminant emissions associated with dockside vessel operations. In

Division 2, new section 116.778, “Additional Requirements for Applications for Small Business Stationary Source Permits, Pipeline Facilities Permits, or Existing Facility Permits” states that in addition to complying with all applicable requirements of Subchapter H, any application for a small business stationary source permit, a pipeline facilities permit, or an existing facility permit must include emissions from the facility resulting from any associated dockside vessel operations. These emissions must comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and property of the public and minimization of emissions to the extent possible, consistent with good air pollution control practices.

The submitted amendment to Subchapter I, Electric Generating Facility Permits, implements TCAA, section 382.05185(c) and (d), which adds additional requirements in new section 116.919. In addition to complying with all applicable requirements of this subchapter, any application for a new grandfathered electric generating facility permit for auxiliary combustors and coal-fired units only must include emissions from the facility resulting from any associated dockside vessel operations. These emissions must comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and property of the public and minimization of emissions to the extent possible, consistent with good air pollution control practices.

C. March 4, 2004 Submittal

In the March 4, 2004 submittal, Texas submitted amended rules to Chapter 116, Subchapter H: “Permits for Grandfathered Facilities, Division 1, General Applicability,” sections 116.770 and 116.772. The submitted amendments to Subchapter H, Permits for Grandfathered Facilities, implement portions of TCAA, section

382.05186, which requires pipeline facilities permits. The amended sections are: section 116.770, Requirements to Apply; and section 116.772, Notice of Shutdown.

The amendment to section 116.770 changes the section title from "Requirement to Apply" to "Requirement to Apply or Register" to better specify the purpose of the section. Also, it adds new subsections (b) and (c), which specify that certain facilities are considered permitted and that the owners and operators of those facilities must submit registrations. Adopted section 116.770(b) implements TCAA, section 382.05186(j). Specifically, section 116.770(b) states that a reciprocating internal combustion engine required to obtain a pipeline facility permit that is subject to a mass emissions cap established by the commission is considered permitted if the facility is located in an ozone nonattainment area and is in compliance with all state and federal requirements for that area by June 20, 2003. 30 TAC section 101.351(a) currently specifies that a mass emissions cap applies to the Houston/Galveston ozone nonattainment area. Adopted section 116.770(b)(2) requires that the grandfathered reciprocating internal combustion engines satisfy any currently applicable state or federal regulations in effect as of June 20, 2003, the effective date of House Bill 638, in order to be considered permitted. In addition, the commission adopts new section 116.770(c), which requires owners and operators of facilities that are considered permitted under section 116.770(b) to submit registrations on or before July 1, 2004. The registration requirement is necessary for the executive director to determine whether all facilities that are considered to be permitted meet the criteria outlined in House Bill 638. The adopted subsections require registration rather than require those facilities to obtain a permit under Chapter 116, qualify for a permit by rule, or shut down. Registrations must be submitted by July

1, 2004, and must include Form PI-1 G, Grandfathered Facility Permit Application.

The amendment to section 116.772 only adopts a change to the cross-references in section 116.772(a) and (b) to parallel changes made in section 116.770.

D. Analysis

The July 31, 2002, September 4, 2002, and March 1, 2004 submittals address the applicability and permitting requirements for grandfathered facilities. The permits issued for these facilities are expected to result in reduced emissions of air contaminants and improved compliance with state and federal air pollution control requirements. Further, these permits should achieve better protection of public health and welfare, and improve the existing SIP. These provisions meet the requirement in 40 CFR § 51.160(a) that each plan include legally enforceable procedures to determine whether the construction or modification of a facility, building, structure, or installation, or combination of these will result in (1) a violation of applicable portions of the control strategy; or (2) interference with attainment or maintenance of a national standard in the state in which the proposed source (or modification) is located or in a neighboring state.

The revision also meets 40 CFR § 51.160(e) by identifying a type of facility that will be subject to review under 40 CFR § 51.160(a). In this case, Texas specifically identified grandfathered facilities.

The revisions to 30 Texas Administrative Code (TAC) Chapter 116, concerning the permitting of grandfathered facilities, will achieve Texas' emissions reductions goals. Compliance with these revisions will cause decreased air emissions due to the shutdown of the source, or the use of emission control methods on grandfathered sources that had previously been exempt from having to use emission controls. Because the revisions will

cause additional emission reductions from these sources, they will better serve to protect the public health and welfare. The revisions will also continue to contribute to improvement of air quality and attainment or maintenance of the federal air quality standards. Overall, these provisions serve to improve the existing SIP. Lastly, these provisions meet the requirement in 40 CFR § 51.160(a) that each plan include legally enforceable procedures to determine whether the construction or modification of a facility, building, structure, or installation, or combination of these will result in (1) a violation of applicable portions of the control strategy; or (2) interference with attainment or maintenance of a national standard in the State in which the proposed source (or modification) is located or in a neighboring State.

Each revision to an implementation plan submitted by a State under the Clean Air Act requires reasonable notice and public hearing prior to adoption by the State and submission to EPA as a SIP revision. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act. EPA is proposing to approve these revisions because they improve the SIP in accordance with Section 110 of the Act. The reductions achieved through the permitting of grandfathered facilities program occur throughout the State of Texas and include reducing precursors to ozone (NO_x and VOC) emissions. The NO_x emissions reductions in certain regions of the State were relied upon in Texas' ozone attainment demonstration plans and will provide benefits in reducing ozone concentrations in nonattainment areas and near nonattainment areas, as well as attainment areas. Further, the permitting of grandfathered sources will benefit the public due to

reductions of air contaminants emitted from affected grandfathered facilities, and present the opportunity for public participation and comment in the permitting procedures for formerly grandfathered facilities. The program establishes requirements, procedures, deadlines and responsibilities for permit applications for facilities formerly exempt from permit requirements.

III. Proposed Action

EPA is proposing to approve revisions to the Texas SIP that includes 30 TAC Chapter 116, subchapter H: “Permits for Grandfathered Facilities,” sections 116.770-772, 116.774-777, 116.779-781, 116.783, 116.785-788, 116.790, 116.793-802, and 116.804-807, which Texas submitted on July 31, 2002. EPA is proposing to approve all of the July 31, 2002, SIP revision submittal as part of the Texas NSR SIP except sections 116.793-802 and 116.804-807, as discussed above.

EPA is proposing to approve revisions to the Texas SIP that includes 30 TAC Chapter 116, Subchapter H: “Permits for Grandfathered Facilities,” sections 116.778 and 116.803; and Subchapter I: “Electric Generating Facility Permits,” section 116.919, which Texas submitted on September 4, 2002. EPA is proposing to approve all of the September 4, 2002, SIP revision submittal as part of the Texas NSR SIP except section 116.803 as discussed above.

EPA is proposing to approve revisions to the Texas SIP that include 30 TAC Chapter 116, Subchapter H: “Permits for Grandfathered Facilities” sections 116.770 and 116.772, which Texas submitted on March 1, 2004. EPA is proposing to approve all of the March 1, 2004, SIP revision submittal as part of the Texas NSR SIP

The July 31, 2002, September 4, 2002, and March 1, 2004 submittals address the applicability and permitting requirements for grandfathered facilities. The revisions will contribute to improvement in overall air quality in Texas. We have evaluated the State's submittal, determined that it meets the applicable requirements of the CAA and EPA air quality regulations, and is consistent with EPA policy.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR § 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public

Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Nonattainment, Ozone, Volatile organic compounds, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 27, 2013.

Ron Curry,

Regional Administrator, Region 6.

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